

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA

v.

Criminal No. 00-77-P-C

MITCHELL WALL,

Defendant

GENE CARTER, District Judge

ORDER

In this case, Defendant Mitchell Wall is charged with violating Title 21, United States Code, Section 841(a)(1) by unlawfully, knowingly, and intentionally distributing cocaine, a Schedule II controlled substance. The Indictment against Defendant also charges that Title 21, United States Code, Section 841(b)(1)(C), which mandates certain increased penalties if “death . . . results from the use of such substance,” applies to Defendant’s conduct. Defendant has now filed a motion to dismiss the enhancement provisions of the indictment on the ground that Section 841(b)(1)(C) is impermissibly vague because it fails to define the terms “results from” and “use” with sufficient clarity to place a person of ordinary intelligence on notice of the conduct encompassed by the section. The Government opposes Defendant’s motion to dismiss, maintaining that Section 841(b)(1)(C) is not unconstitutionally vague.

After consideration of the arguments, the Court finds the reasoning of Judge Parker in evaluating the alleged vagueness of a similar provision of Section 841(b)(1)(C) in *United States*

v. Chevalier fully persuasive on the issue raised by Defendant's motion. *See United States v. Chevalier*, 776 F. Supp. 853, 859-60 (D. Vt. 1991). Accordingly, the Court **ORDERS** that Defendant's Motion to Dismiss be, and it is hereby, **DENIED**.

GENE CARTER
District Judge

Dated at Portland, Maine this 31st day of January, 2001.

CASE #: 00-CR-77-ALL

MITCHELL WALL (1)
defendant

NEALE A. DUFFETT, ESQ.
[COR LD NTC]
CLOUTIER, BARRETT, CLOUTIER &
CONLEY
465 CONGRESS STREET
8TH FLOOR
PORTLAND, ME 04101
775-1515

U. S. Attorneys:

HELENE KAZANJIAN, ESQ.
[COR LD NTC]
OFFICE OF THE U.S. ATTORNEY
P.O. BOX 9718
PORTLAND, ME 04104-5018
(207) 780-3257